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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,653	02/06/2004	Anil Kamath	111210-134991	7631
25943 7590 05/11/2010 Schwabe Williamson & Wyatt PACWEST CENTER, SUITE 1900 1211 SW FIFTH AVENUE PORTLAND, OR 97204				
EXAMINER MANSFIELD, THOMAS L				
ART UNIT 3624		PAPER NUMBER		
MAIL DATE 05/11/2010		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/773,653

Applicant(s)

KAMATH, ANIL

Examiner

THOMAS MANSFIELD

Art Unit

3624

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-17, 20-23 and 25-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-17, 20-23, and 25-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: _____

DETAILED ACTION

1. This Final Office action is in reply to the applicant amendment filed on 14 January 2010.
2. Claims 1, 7-9, 14, and 20 have been amended.
3. Claims 28 and 29 are new and have been added.
4. Claims 1-5, 7-17, 20-23, and 25-29 are currently pending and have been examined.

Response to Amendment

5. Applicant's amendments necessitated the new grounds of rejection.

Response to Arguments

6. Applicant's arguments 14 January 2010 have been fully considered but they are moot in view of new grounds of rejection.

Claim Objections

7. Claims 2-4, 8 and 27, 15-16, and 21-22 objected to because of the following informalities: Claims 2-4 and 27 depend from Claim 1, Claims 15-16 depend from Claim 14, and Claims 21-22 depend from Claim 20. Independent Claims 1, 14, and 20 have been amended to recite, "*one or more models*". For examination purposes, the Examiner will interpret dependent Claims 2-4 and 27, 15-16, and 21-22 as reciting, "*one or more models*" and not "*plurality of models*". Claim 8 is objected to for the same reason. Claim 7 has been amended to recite "*one of a group of objective functions*". Since Claim 8 depends from Claim 7, the Examiner will interpret Claim 8 as reciting, "*wherein the one of a group of objective functions*". Appropriate correction is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
9. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meisel et al. (Meisel) (U.S. 7,035,812) in view of Kim (U.S. Pub. No. 2008/0097830).

With regard to Claims 1, 14, and 20, Meisel teaches a *method, computer readable medium, and apparatus for determining a bidding strategy for a plurality of marketing options* (system and method for enabling multi-element bidding for influencing a position on a search result list) (see at least the Abstract) comprising:

- *facilitating, by a computing device having a processor and a memory (processing system 34), prior to placing one or more bids among the marketing options, specification of one or more models (predictor model) that model one or more performance metrics (value of bid element amount 358 can be determined by calculating the market value of that amount. Market value of the amount calculated as the product of the amount and the probability of occurrence of the referral event, click-through, click through rate) for the plurality of marketing options (searcher listing) based at least in part on a plurality of positions (highest rank value, ordinal number, rank of the search listing) occupied by the marketing options (searcher listing) in a selected one of on-line query answer sets and contextual advertisements (advertiser's search listing, wherein the plurality of positions occupied by the marketing options are responsive to monetary resources (Bid element amounts 358) allocated to the one or more bids placed among the marketing options (see at least column 15, line 65 through column 19, line 10, column 24, line 4 through column 25, line 36, and column 28, lines 4-59);*

- *determining, by the computing device, prior to placing the one or more bids, a bidding strategy (a rank value is a value generated dynamically preferably by the processing system 34, comparative attractiveness factor, normalized probability) directing allocation of monetary resources to place the one or more bids among the plurality of marketing options (rank value of an advertiser's search listing helps to determine the placement location of the advertiser's entry in the search result list), wherein determining includes quantitatively finding an optimal solution (higher ordinal values) for an objective function using the one or more models (predictor model), the objective function being one of maximizing clicks to information associated with a product or service or maximizing revenue of a product or a service, the objective function having variables associated with the allocation of monetary resources for the one or more bids (value of bid element amount 358 can be determined by calculating the market value of that amount. Market value of the amount calculated as the product of the amount and the probability of occurrence of the referral event, click-through, click through rate) (see at least column 15, line 12 through column 19, line 10, column 24, line 4 through column 25, line 36, and column 28, lines 4-59);*
- *after determining the bidding strategy, the computing device generating a report to report on the determined bidding strategy for use to allocate monetary resources to place the one or more bids among the marketing options ("View Report" option, search terms, URLs, bids, current ranks, current balance) (see at least column 29, lines 5-63).*

With regard to Claim 2, Meisel teaches *wherein the method further comprises facilitating a user (advertiser specifies a search listing), by the computing device, in creating the one or more models (predictor model) (see at least column 28, lines 4-59).*

With regard to Claims 3, 15, and 21, Meisel teaches *wherein the one or more models comprise click models (predictor model) for the marketing options that forecast number of clicks (click through rate) for the marketing options for the various positions (estimated daily total of all clicks) (see at least column 28, lines 38-55).*

With regard to Claims 4, 16, and 22, Meisel teaches *wherein the one or more models comprise revenue models (to determine a daily expense projection) for the marketing options that forecast revenues for the marketing options based on click conversions* (see at least column 28, lines 32-59).

With regard to Claims 5, 17, and 23, Meisel teaches *wherein the on-line query sets comprises on-line query answer sets of different search engines* (search engine server 24) (see at least column 9, lines 12-21).

With regard to Claim 7, Meisel teaches *wherein the objective function is further one of a group of objective functions including: a first objective function to maximize number of clicks for the marketing options (click through event), and a second objective function to minimize average cost per click ("cost-per-click" ("CPC")) for the marketing options (normalized value of bid element 358)(see at least column 17, line 10 through column 18, line 26).*

With regard to Claim 8, Meisel teaches *wherein the one of a group of objective functions further include at least one of:*

- *a third objective function to minimize the average cost per customer for the products or services of the marketing options, a fourth objective function to maximize revenue for the products or services of the marketing options, a fifth objective function to maximize profit for the products or services of the marketing options ("Account Management" menu 170) (see at least column 28, lines 3-67).*
- *a sixth objective function to minimize marketing expenses for the marketing options (determine a daily expense projection) (see at least column 28, lines 3-67).*
- *a seventh objective function to maximize a number of increases in customer sign-ups or registrations for products or services of the marketing options (encourage users who are likely to respond to the propositions of the advertiser's web site to click on the listing) (see at least column 16, lines 34-59).*

With regard to Claims 9, 28, and 29, Meisel teaches *wherein said finding an optimal solution for the objective function comprises finding an optimal solution for the objective function subject to one or more constraints* (bid amount, ordinal values) (see at least column 13, lines 7-28).

With regard to Claim 10, Meisel teaches *wherein the one or more constraints include a constraint* (money amount) *requiring a traffic level for a URL for a period of time* (see at least column 16, lines 9-21).

With regard to Claim 11, Meisel teaches *wherein the one or more constraints include a constraint requiring a marketing option to be at a selected one of a particular on-line query answer set position* (rank value of advertiser's search listing), *and a particular contextual advertisement position* (placement location) (see at least column 15, line 39 through column 16, line 59).

With regard to Claim 12, Meisel teaches *wherein the one or more constraints include at least one of a constraint* (certain key events) *requiring a cost limit for average cost per customer* (account balance), *a constraint requiring a cost limit for the marketing options* (fallen below a specified level), *and a constraint requiring a limit on an amount of revenue generated by products or services of the marketing options* ("Add Money to Account") (see at least column 15, line 13 through column 16, line 59).

With regard to Claims 13 and 25-26, Davis teaches *wherein the method further comprises facilitating submission of a bidding for the plurality of marketing options* (the system allows the advertiser to bid on action events), *by the computing device/enable the apparatus, for the positions for the plurality of marketing options based at least in part on the determined bidding strategy* (highest bid amount, has been outbid by another advertiser, notification routine) (see at least column 14, line 13 through column 20, line 21).

With regard to Claim 27, Davis teaches *receiving by the computing device, empirical data for a plurality of performance metrics* (number of clicks, or referrals, for all search terms, sum of all clicks at a given rank) *for a plurality of purchased marketing options; and constructing the model* (predictor model), *by the computing device, using the empirical data* (see at least column 28, lines 32-59).

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
- A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
11. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
- Reisman (U.S. 7,406,436) discloses a method and apparatus for collecting, aggregating and providing post-sale market data for an item.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS MANSFIELD whose telephone number is (571)270-1904. The examiner can normally be reached on Monday-Thursday 8:30 am-6 pm, alt. Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boswell Beth can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. M./
Examiner, Art Unit 3624

7 May 2010
Thomas Mansfield

/Beth V. Boswell/

Supervisory Patent Examiner, Art Unit 3623